

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**UNITED STATES OF AMERICA,**  
*Plaintiff,*

**v.**

**RODOLFO ARIEL AMPARO-AYBAR,**  
*Defendant*

**CRIM. NO. 17-026 (JAG)**

**UNITED STATES' SENTENCING MEMORANDUM**

**TO THE HONORABLE COURT:**

The United States of America, by and through the undersigned attorneys, very respectfully states and prays as follows:

**I. INTRODUCTION**

On April 18, 2017 defendant Rodolfo Ariel Amparo-Aybar pled guilty to the One-Count of the Indictment (Use of a False Passport) in violation of Title 8, *United States Code*, Section 1543, by way of a straight plea.

The United States agrees with the Probation Officer's calculation of the sentencing guidelines as contained in the Presentence Report (DE No. 44) and, in consequence, it respectfully submits that a sentence within the higher range of the applicable guidelines of a Total Offense Level (TOL) of 10, combined with his Criminal History Category (CHC III), followed by a Term of Supervised Release as required by law, is sufficient but not greater than necessary and would address the seriousness of the offense and would achieve the necessary deterrence.

**II. FACTUAL BACKGROUND**

On or about December 24, 2016, U.S. Customs and Border Protection (CBP) Officers encountered Rodolfo AMPARO-Aybar, at the Luis Muñoz Marín International Airport, Carolina,

Puerto Rico, attempting to board JetBlue flight 2237, bound to the City of Santo Domingo, Dominican Republic.

AMPARO-Aybar presented, to the CBP Officers, a Dominican Republic Passport #SE2726441, containing his photograph but issued under the name of Angel Alfonzo RODRIGUEZ. AMPARO-Aybar claimed to be the rightful owner of the document and he was referred for a closer inspection to verify his identity and legal status in the United States, as well as any prior records.

An FBI query of his fingerprints revealed a match to an FBI record #837560WC3 related to a prior aggravated felony conviction of AMPARO-Aybar, on June 21, 2011, at the Trial Court of Massachusetts, for Distribution of a class A Drug (Heroin), for which he was sentenced to two (2) years' incarceration.

On December 20, 2012, AMPARO-Aybar was also convicted, at the United States District Court New Hampshire, for a Weapons violation and Aggravated Identity Theft and sentenced to forty-eight (48) months incarceration.

On June 13, 2013, AMPARO-Aybar was served with a Final Administrative Removal Order but he evaded the authorities and was never removed by the United States.

Although at the time of the arrest for the instant offense, AMPARO-Aybar did not waive his constitutional rights, he did confirm that his true identity is Rodolfo AMPARO-Aybar, a citizen and national of the Dominican Republic.

The Presentence Report (DE No. 44) captures in thorough detail the defendant's criminal history and encounters with the law. As contained in paragraphs 33-46, the defendant has shown an irreverent con-artist behavior for the past almost ten years where he has not stopped at forging documents with the purpose of obtaining illegal firearms, he has distributed heroin, used heroin

addicts to purchase illegal weapons for him to even lied to the court using false identities (DE. No. 44, Pg. 9).

### **III. PENALTIES**

The maximum penalties for **COUNT ONE** include a term of imprisonment for fifteen (15) years; a term of supervised release of no more than one (3) years; and a fine not to exceed \$250,000.00.

**WHEREFORE**, the United States, very respectfully, submits that a sentence within the **upper level** of the applicable guidelines of a Total Offense Level (TOL) of 10, combined with his Criminal History Category III, followed by a Term of Supervised Release of three (3) years, is sufficient but not greater than necessary and would address the seriousness of the offense and would achieve the necessary deterrence.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 7<sup>th</sup> day of August 2017.

**ROSA EMILIA RODRIGUEZ-VÉLEZ**  
United States Attorney

*s/ Cristina Caraballo-Colón*  
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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel for the defendant.

*s/ Cristina Caraballo-Colon*

**CRISTINA CARABALLO-COLÓN**

USDC-PR No. 300508

Special Assistant United States Attorney